

	<h1>Public Notice</h1>		
	Public Notice No. 200301224	Date: 6 Nov 03	Closing Date: 6 Dec 03
US Army Corps of Engineers Louisville District	Please address all comments and inquiries to: U.S. Army Corps of Engineers, Louisville District ATTN: Mr. Todd Hagman, CELRL-OP-FS 845 Sassafras Creek Road Sassafras, Kentucky 41759-8806 <div style="text-align: right;">Phone: (606) 642-3404</div>		

This notice announces an application submitted for a Department of the Army (DA) Permit, subject to Section 404 of the Clean Water Act (CWA).

APPLICANT: Bizzack, Inc.
2265 Executive Drive
Lexington, Kentucky 40505

AGENT: Bocook Engineering, Inc.
312 Ten
th Street
Paintsville, Kentucky 41240

LOCATION: The project is located on Elisha Fork in Knott County, Kentucky, along KY Route 80. The project is proposed at approximately 1.0 mile northeast of the Knott and Perry County Line.

Latitude: 37-21-56.4005
Longitude: 83-06-10.2775
7.5 Minute Quad: Carrie, Kentucky.

PURPOSE: The purpose for the discharge of fill and relocation of an existing stream channel is for the disposal of excess material generated from a slide repair.

DESCRIPTION OF WORK: The applicant proposes roadway improvements that involve the repair and excavation of vertical rock slopes along Kentucky Route 80. The excess material generated would require the construction of a hollow fill and relocation of a perennial stream. Approximately 440,000 cy of material would be discharged as mixed fill. This material would include native rock and soil.

The proposed project would impact a total of 1,475 linear feet of perennial stream. The impact would be located in Elisha Fork a tributary of Roaring Fork. Roaring Fork is a tributary of Balls Fork in the North Fork Kentucky River watershed.

The applicant proposes to construct a hollow fill and relocate 1,475 feet (ft) of Elisha Fork into 1,512 ft of new channel. The applicant proposes to utilize on-site mitigation by utilizing natural channel design techniques in fluvial geomorphology.

Elisha Fork was evaluated using a functional assessment model, USACE Eastern Kentucky Stream Assessment Protocol to establish baseline conditions, proposed impacts (debits) and proposed mitigation (credits). The aquatic resource debits/credits are derived from the functional assessment model, by applying an Ecological Integrity Index (EII) per running foot to the proposed impact/mitigation reach length(s). The resulting "currency" of Ecological Integrity Units (EIU's) provides a quantified and qualitative measure to evaluate project debits and/or credits. Using this model and information collected from the site and provided by the agent, the proposed fill would result in a loss of approximately 212.3 EIU's. The applicant has proposed to offset this loss by reconstructing a naturally designed stream channel along the side of the fill material. The compensatory mitigation plan for the reconstructed channel predicts 454 EIU's. A total of 241 EIU's would be gained for the proposed project. The additional EIU's would offset temporal and cumulative impacts of the proposal.

The applicant has provided plan drawings and a prepared stream mitigation plan, which can be viewed in its entirety by contacting this office upon request.

It is noted that this proposed mitigation plan is open to comment and subject to change. The Corps will make a determination of appropriate mitigation, upon review of all submitted information.

REVIEW PROCEDURES: A DA Permit cannot be issued if any legally required Federal, State, or local authorization or certification is denied. A DA Permit, if otherwise warranted, will not be issued until a Water Quality Certification or waiver is on file at this office. In order to comply with Section 401 of the Clean Water Act, the applicant, by this notice, hereby applies for State certification from the Kentucky Natural Resources and Environmental Protection Cabinet Division of Water (KDOW).

Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife agencies. Their views and comments are solicited in accordance with the Fish and Wildlife Coordination Act of 1956. Based on available information, the proposed activity will not destroy or endanger any Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. A request for a public hearing must state the specific interest, which might be damaged by issuance of the DA Permit.

The National Register of Historic Places has been examined, and it has been determined that there are no properties currently listed on the Register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archaeological, scientific, pre-

historical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic values, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and in general, the needs and welfare of the public. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines (40 CFR Part 230) promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 (b) of the CWA.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Written statements received in this office on or before the closing date will become a part of the official record and will be considered in the determination on this permit request. Any objections, which are received during this period, will be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. A permit will be granted unless its issuance is found to be contrary to the public interest.

Information pertaining to this application is available for public examination during normal business hours upon prior request. All comments regarding this proposal should be addressed to Mr. Hagman, CELRL-OP-FS at the address noted above and should refer to the Public Notice Number 200301224.